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April 4, 2014

VIA ECF

The Honorable Cheryl L. Pollak
The Honorable Gary R. Brown
The Honorable Ramon E. Reyes, Jr.
United States Magistrate Judges
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: In Re Hurricane Sandy Cases
United States District Court for the Eastern District of New York
Docket No.: 14 MC 41 (CLP-GRB-RER)

Dear Judges Pollak, Brown and Reyes:

Since the Liaison Conference of March 27, 2014, defense counsel has discussed the subject matters addressed during the conference. As a result of these discussions, I believe the following is a fair representation of matters that defense counsel would like to bring to the Committee's attention at this time.

1. While the numerous defense counsel and liaison counsel believe their written and oral communications that take place in order to further the Court's desire that parties coordinate their efforts are protected under a joint interest theory, we would feel more comfortable with a Court order recognizing that all such communications are privileged. In addition to the privileges afforded by the February 21, 2014 Case Management Order No. 1 ("CMO No. 1") Section IV. C., we request an Order that states as follows:

In addition to the privileged communications protected by the Federal Rules of Evidence and Civil Procedure and by Case Management Order No. 1, Section IV. C., communications of any kind whatsoever, whether written, oral or electronic, between or among plaintiffs' counsel and between or among plaintiffs' counsel and any plaintiffs shall be privileged. Communications of any kind whatsoever, whether written, oral or electronic between or among defendants' counsel and between or among defendants' counsel and any defendants shall be privileged.

We believe an order in this regard would assist the Court in the management of Hurricane Sandy litigation because it would facilitate open discussion and collaboration among parties' counsel, thereby promoting efficiency in our efforts and conservation of judicial resources.

2. In furtherance of the Court's granting of leave for defense counsel to perform a sampling and evaluation of various estimators' work, defense counsel have noted that numerous estimates

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prepared on behalf of policyholders do not identify the individual who prepared the estimates, in particular those prepared by Canopy Claims Management. To determine which estimates should be included as part of the sampling process, defense counsel request that plaintiffs be required to identify the names of the individuals who prepared estimates on plaintiffs' behalf.

3. Finally, defendants' counsel note that for many cases that were filed prior to entry of CMO No. 1 on February 21, 2014, service of process has only recently have been effectuated. Under the terms of CMO No. 1, the parties have less than 60 days to comply with the discovery directive contained therein. Therefore, defendants' counsel respectfully request that the Court modify CMO No. 1, Section IV(A) as follows:

A. Automatic Disclosures by Plaintiffs

1. Within 60 days of the date of the filing of the Answer by the Defendant, unless such information has already been provided or appears on the face of the complaint, plaintiffs in all Hurricane Sandy cases shall provide the following information to defendants' counsel:

* * *

2. Within 60 days of the filing of the Answer by the Defendant(s), plaintiffs shall produce the following documents:

* * *

B. Automatic Disclosure by Defendants

1. Within 60 days of the filing of the Answer by the Defendant, Defendants in all Hurricane Sandy cases shall provide the following information to plaintiffs:

Respectfully,

WHITE FLEISCHNER & FINO, LLP

NIELSEN, CARTER & TREAS, LLC

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